

FILED

DEC 05 2005

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKABy RL DeputyIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RONN L. ROSEBERRY, a/k/a "Rosie",)
 BETTY J. DUVAL,)
 TWILA JO DAVIS,)
 SUSAN C. MCKITRICK, and)
 SABRENA M. VITCOVICH,)
)
 Defendants.)

No. J05-0004-CR (HRH)

This Order pertains to:

TWILA JO DAVIS [D-03]

O R D E RMotion for Substance Abuse Treatment

Defendant Davis moves for an order authorizing substance abuse treatment pending imposition of sentence.¹ The Government opposes the motion.² In light of the nature of this motion, the court has consulted with the assigned probation officer regarding the subject of this motion.

¹Clerk's Docket No. 139.

²Clerk's Docket No. 141.

Pursuant to a plea agreement² and pursuant to defendant Davis' plea of guilty, she has been adjudged guilty as charged in Count 2 of an indictment alleging attempted possession with intent to distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. § 846. She is scheduled to be sentenced on January 9, 2006.

Defendant Davis urges that she is in need of substance abuse treatment and desires to embark upon such a program of treatment without delay. The court entertains no doubt that defendant is in need of such treatment. Defendant also suggests that if she is permitted to embark upon a treatment program, the court should delay imposition of sentence for a sufficient period of time to permit her treatment to "run its course".³

It is the court's perception that what counsel for defendant urges is in substance a suspended imposition of sentence. Federal law no longer makes any specific provision for this kind of sentence. The court supposes, without deciding however, that it has some general discretion to defer sentencing; and that is often done, although usually at the request of the Government on behalf of a defendant who is actively cooperating with the Government on the development of other cases. The latter appears not to be the situation here.

²Clerk's Docket No. 129.

³Motion for Order Authorizing Treatment at 3, Clerk's Docket No. 139.

The court has consulted with the probation officer assigned to this case. It is the view of the probation officer – a view which the court itself entertained even prior to discussing the matter with the probation officer – that non-custodial substance abuse treatment is ordinarily more appropriately carried out after a sentence of imprisonment has been served and as a part of introducing a defendant back into the community. If, as the court hopes to be the case, defendant Davis is truly motivated to make changes in her lifestyle, she can and should pursue that goal while at the same time serving her sentence. The court will urge the Bureau of Prisons to place defendant in an institution providing substance abuse treatment and counseling. Upon completion of that sentence, the court will require that defendant participate in a substance abuse treatment program as directed by her probation officer.

The motion for authorization to participate in a substance abuse treatment program pending imposition of sentence and the implied request for a delay in imposition of sentence is denied.

DATED at Anchorage, Alaska, this 5th day of December, 2005.


 H. Russel Holland
 United States District Judge

IMMEDIATE NOTIFICATION
IS REQUESTED

re ✓ 12/5/05 t/c notice: J. Goeke, S. Sterling